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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,594	04/22/2004	Ken-Jen Yu	3744-04398.4	6879

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700 Koppers Building
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Pittsburgh, PA 15219-1818

EXAMINER

HOPKINS, CHRISTINE D

ART UNIT	PAPER NUMBER
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3735

MAIL DATE	DELIVERY MODE
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10/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/829,594

Applicant(s)

YU, KEN-JEN

Examiner

CHRISTINE D. HOPKINS

Art Unit

3735

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is responsive to the Amendment filed 11 July 2008. Claims 1-17 are now pending. The Examiner acknowledges the amendments to claims 1, 7 and 9-17.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Reinbolt et al. (U.S. Patent No. 5,256,123). Reinbolt et al. (hereinafter Reinbolt) disclose an apparatus comprising a hollow longitudinally extending member for placement within the vagina. Regarding claims 1-3, 7-9, 11 and 13, Reinbolt teaches a hollow columnar vaginal member comprising a main body **120**, a minor part **100** and a screw or fastener "jointing structure" **140** formed between said main body and said minor part for connection between the two (Figs. 2 and 3). The main and minor parts are also interpreted as the "plural petal structures" in accordance with claim 9 because there is no special technical definition associated with this particular structure in the specification, hence, the broadest reasonable interpretation of the term "petal" is given. Many different shapes and types of petals exist, therefore a possibility of many different interpretations also exist. With respect to claims 4, 6, 10 and 14, the main body and

minor part are both porous structures (Fig. 3 and col. 4, lines 38-43). Regarding claim 5, the minor part has an arc-shaped surface (Fig. 2).

With respect to claim 12, the device is considered to be a "one-end opened hollow structure" as depicted in Fig. 3. Regarding claims 15-17, the plural structures are identical structures (Fig. 3), yet are also different as evidenced by Fig. 2.

Response to Arguments

4. Applicant's arguments filed 11 July 2008 with respect to the rejection of claims 1-8, 11 and 13-17 under 35 U.S.C. 112, second paragraph have been fully considered and are persuasive. The rejection of claims 1-8, 11 and 13-17 under 35 U.S.C. 112, second paragraph has been withdrawn.

5. Applicant's arguments filed 11 July 2008 with respect to the rejection of claims 1-17 under 35 U.S.C. 102(b) citing Reinbolt et al. ('123) have been fully considered and are not persuasive. Applicant contends that the vaginal mold taught by Reinbolt is not detachable in the vagina. However, this argument is not persuasive. As recognized by Applicant, the main body **120** and minor part **110** comprising the hollow longitudinally extending member (vaginal mold) is constructed as a detachable apparatus, and thus is capable of being detachable in the vagina. The screw or fastener **140** imparts this detachable feature to the apparatus. Moreover, it is noted that it is unclear, based on the claim language, if the vaginal mold of claim 1 is being detached from another structure, or if components of the vaginal mold are detachable from each other. In view

of the foregoing, the rejection of claims 1-17 under 35 U.S.C. 102(b) citing Reinbolt et al. ('123) has been maintained.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTINE D. HOPKINS whose telephone number is (571)272-9058. The examiner can normally be reached on Monday-Friday, 7 a.m.-3:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information

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system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. D. H./
Christine D Hopkins
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